

**REMARKS**

This is a full and timely response to the outstanding non-final Office Action mailed March 10, 2006. Reconsideration and allowance of the application and pending claims are respectfully requested.

**Claim Rejections - 35 U.S.C. § 103(a)**

Claims 1, 2, 6-11, 13-19, 21, 22, 24-27, and 29-32 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over *McEwan* (U.S. Patent No. 5,766,208) in view of *Wright* (U.S. Patent Publication No. 2002/0105455 A1). Claims 2-5, 12, 20, 28, and 33 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over *McEwan* in view of *Wright* in further view of the article to Chuang et al. ("Microprocessor-Controlled Automatic Clutter-Cancellation Circuits for Microwave Systems to Sense Physiological Movements Remotely through the Rubble."). It is well-established at law that, for a proper rejection of a claim under 35 U.S.C. § 103 as being obvious based upon a combination of references, the cited combination of references must disclose, teach, or suggest, either implicitly or explicitly, all elements/features/steps of the claim at issue. See, e.g., *In Re Dow Chemical*, 5 U.S.P.Q.2d 1529, 1531 (Fed. Cir. 1988), and *In re Keller*, 208 U.S.P.Q.2d 871, 881 (C.C.P.A. 1981).

**a. Claims 1-2 and 6-11**

Regarding claims 1-2 and 6-11, Applicants submit that *McEwan* in view of *Wright* does not teach or suggest at least "a control system to track the position of the scanning antenna as the scanning antenna transmits the microwave signal while the position of the scanning antenna mechanically and continuously rotates," as recited in independent claim 1.

Rather, *McEwan* discloses a heart and respiratory monitor, where "antennas in the heart and respiratory monitor are formed of simple wires that may be embedded in a mat, mattress or seat back along with the circuitry to provide a low cost life monitor, i.e., to determine whether the person lying on the mat or sitting on the chair is still alive, or when that person's life signs have changed." Cols. 6-7, lines 61-3. As such, *McEwan* does

not teach or suggest a scanning antenna that changes position as it scans and therefore fails to also teach or suggest "a control system to track the position of the scanning antenna as the scanning antenna transmits the microwave signal while the position of the scanning antenna mechanically and continuously rotates.

With regard to *Wright*, the Office Action states that *McEwan* "does not show a movable antenna" and suggests that *Wright* teaches "moving the radar antennas over the surface of the underground medium of interest." Office Action, page 3. Accordingly, *Wright* discloses that a radar device, including horn antenna 3, reflector 17, and waveguide 3, are moved as a whole across the surface of a dome surface 6. However, *Wright* fails to teach or suggest a scanning antenna that transmits a microwave signal while the position of the scanning antenna mechanically and continuously rotates. Further, the system in *Wright* is being used for geological images and is not being used to detect a respiration signal of a subject. Accordingly, there is no showing that the proposed combination of *McEwan* with *Wright* would produce the claimed subject matter such as "detecting the phase shifted respiration signal of the at least one subject, wherein the reflected microwave signal was from the at least one subject" when the scanning antenna is continuously rotating, as described in the claim. Therefore, a *prima facie* case establishing an obviousness rejection by the proposed combination of *McEwan* with *Wright* has not been made with regard to claim 1 and claims 2 and 6-11 which depend therefrom.

b. Claims 13-19 and 21-22

Regarding claims 13-19 and 21-22, Applicants submit that *McEwan* in view of *Wright* fails to teach or suggest at least "means for tracking the position of the means for transmitting as the means for transmitting transmits the microwave signal while the means for transmitting mechanically and continuously rotates," as recited in independent claim 13 for similar reasons as stated above with regard to claim 1. (Emphasis added). As such, *McEwan* in view of *Wright* does not teach or suggest a scanning antenna that changes position as it scans and physically rotates and therefore, also fails to teach or suggest a "means for tracking the position of the means for transmitting as the means for

transmitting transmits the microwave signal." Accordingly, claim 13 and claims 14-19 and 21-22 (which depend from claim 13) are allowable over *McEwan* in view of *Wright*, for at least these reasons.

c. Claims 24-27 and 29-32

Regarding claims 24-27 and 29-32, Applicants submit that *McEwan* in view of *Wright* fails to teach or suggest at least "continuously and mechanically rotating a scanning antenna that is transmitting a microwave signal across the target area along a horizontal scanning axis" and "tracking the position at which the microwave signal is transmitted along the horizontal scanning axis," as recited in claim 24. (Emphasis added). For at least the reasons made with respect to claim 1 above, a *prima facie* case establishing an obviousness rejection by the proposed combination of *McEwan* with *Wright* has not been made with regard to claim 24 and claims 25-27 and 29-32 which depend therefrom.

d. Claims 2-5, 12, 20, 28, and 33

The Office Action states that the Chuang reference is used to disclose absorbers that allegedly may be used in the *McEwan* in view of *Wright* system. Without discussing the merits of the motivation for making this combination, all of the claimed features of independent claims 1, 13, and 24 are not taught and suggested by *McEwan* in view of *Wright*, as previously discussed. Further, the cited art of Chuang fails to cure the deficiencies of the *McEwan* and *Wright* references in suggesting or teaching all of the claimed features in claims 2-5, 12, 20, 28, and 33 (which depend from respective independent claims 1, 13, and 24). Therefore, a *prima facie* case establishing an obviousness rejection by the proposed combination of *McEwan* with *Wright* and Chuang has not been made. Therefore, the rejections of claims 2-5, 12, 20, 28, and 33 should be withdrawn.

Further, the proposed combination of *McEwan* in view of *Wright* in further view of Chuang fails to teach or suggest "wherein the scanning antenna is being operated in a hand held mode," as recited in claim 12 and "wherein the transmitting step is being performed in a hand held mode," as recited in claim 33, among other features. Further, the proposed

combination is not shown to produce the claimed subject matter for each of the claims. For example, the proposed combinations are not shown to produce a system operable to detect a respiration signal of a subject utilizing a continuously rotating transmitting antenna that is being operated in a hand held mode.

### CONCLUSION

Applicants respectfully submit that the pending claims are in condition for allowance. Favorable reconsideration and allowance of the present application and all pending claims are hereby courteously requested. If, in the opinion of the Examiner, a telephonic conference would expedite the examination of this matter, the Examiner is invited to call the undersigned attorney at (770) 933-9500.

Respectfully submitted,



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